

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE UNITED STATES OF AMERICA, <i>et al.</i> ,	:	
<i>ex rel.</i> CATHERINE A. BROWN and	:	
BERNARD G. VEZEAU	:	
	:	CIVIL ACTION
v.	:	
	:	NO. 05-6795
PFIZER, INC.	:	

**ORDER**

**AND NOW**, this 22<sup>nd</sup> day of June, 2017, upon consideration of Defendant's Motion to Certify Questions for Interlocutory Review and For Stay (ECF No. 126), and all documents submitted in support thereof and in opposition thereto, it is **ORDERED** as follows:

1. Defendant's Motion to Certify Questions for interlocutory appeal is **GRANTED**.

The Court certifies the following questions for interlocutory appeal pursuant to

28 U.S.C. § 1292(b):

- a. Is it possible for allegations to satisfy the FCA's demanding materiality requirement when the government learned about the allegations more than a decade ago, conducted a multi-year investigation, and continues to pay the relevant claims?
- b. If a relator "brings a related action" in violation of the FCA's first-to-file rule, can the relator cure this defect by merely filing an amended complaint after the earlier-filed lawsuit is no longer "pending?"
- c. Does 42 U.S.C. § 1395x(t)(2)(B) apply to Vfend even though it is not "used in any anticancer chemotherapeutic regimen?"

2. Defendant's Motion for Stay of these proceedings is **GRANTED**. All proceedings shall be stayed pending resolution of the appeal. The Clerk of Court is directed to place this case in civil suspense.

**IT IS SO ORDERED.**

**BY THE COURT:**

A handwritten signature in dark ink, appearing to read 'R. Surrick', is written over a horizontal line.

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**R. BARCLAY SURRICK, J.**